HEALTH AND MUNICIPAL ADMINISTRATION SECRETARIAT.

## NOTIFICATION

Bangalore, dated 8th November 1971.

**G.S.R. 349.**—WHEREAS a draft of the Mysore Local Authorities (Disciplinary Proceedings against Employees) Rules, 1971 was published as required by sub-section (1) of Section 9 of the Mysore Local Authorities (Disciplinary Proceedings against Employees) Act, 1969 (Mysore Act 28 of 1969) in Notification No. G.S.R. 222 (HMA 22 MLR 71), dated the 9th July 1971 in the *Mysore Gazette*, dated the 22nd July 1971 inviting objections and suggestions from all persons likely to be affected thereby on or before 30th August 1971;

AND WHEREAS the said Gazette was made available to the public on 22nd July 1971;

AND WHEREAS no objections or suggestions have been received on the said draft;

NOW, THEREFORE, in exercise of the powers conferred by sub-section (1) of Section 9 of the Mysore Local Authorities (Disciplinary Proceedings against Employees) Act, 1969 (Mysore Act 28 of 1969), the Government of Mysore hereby makes the following rules, namely:—

**1. Title.**—These rules may be called the Mysore Local Authorities (Disciplinary Proceedings against Employees) Rules, 1971.

**2. Definitions.**—In these rules, unless the context otherwise requires,—

(a) 'Act' means the Mysore Local Authorities (Disciplinary Proceedings against Employees) Act, 1969.

(b) 'Inquiring Officer' means the Vigilance Commissioner or such Officer of the Directorate of Vigilance authorised by the Vigilance Commissioner to conduct an inquiry under the Act;

(c) 'Section' means a section of the Act.

**3. Manner of conduct of inquiry by the Vigilance Commission.**—(1) The Inquiring Officer shall be an Officer not below the rank in the State Civil Service corresponding as nearly as may be to the rank of the employee under the local authority in relation to whose case the inquiry is to be conducted and in conducting an inquiry the Inquiring Officer shall follow the procedure laid down in this rule.

(2) The Inquiring Officer shall frame definite charges on the basis of the allegations on which the inquiry is proposed to be held. Such charges, together with a statement of the allegations on which they are based, shall be communicated in writing to the employee and he shall be required to submit, with such time as may be specified by the Inquiring Officer, a written statement of his defence and also to state whether he desires to be heard in person.

(3) The employee shall, for the purpose of preparing his defence, be permitted to inspect and take extracts from such official records as he may specify, provided that such permission may be refused if, for reasons to be recorded in writing, in the opinion of the Inquiring Officer such records are not relevant for the purpose or it is against the public interest to allow him access thereto.

(4) On receipt of the written statement of defence or if no such statement is received within the time specified the Inquiring Officer may inquire into such of the charges which are not admitted.

(5) The Inquiring Officer may nominate any person to present the case, in support of the charges, before him. The employee may present his case himself or with the assistance of any other employee of the local authority concerned or a Government Servant, but may not engage a legal practitioner for the purpose unless the person nominated by the Inquiring Officer is a legal practitioner or unless the Inquiring Officer having regard to the circumstances of the case, so permits.

(6) The Inquiring Officer, shall in the course of the Inquiry, consider such documentary evidence and take such oral evidence as may be relevant or material in regard to the charges. The employee shall be entitled to cross-examine witnesses examined in support of the charges and to give evidence in person and to examine witnesses in this behalf. The person presenting the case in support of the charges shall be entitled to cross-examine the employee and the witnesses examined in his defence. If the Inquiring Officer declines to examine any witness on the ground that his evidence is not relevant or material, he shall record his reasons in writing.

(7) At the conclusion of the inquiry, the Inquiring Officer shall prepare a report of the inquiry, record his findings on each of the charges together with reasons therefor. If in the opinion of the Inquiring Officer the proceedings of the inquiry establish charges different from those originally framed, he may record findings on such charges provided that findings on such charges shall not be recorded unless the employee has admitted the facts constituting them or has had an opportunity of defending himself against them.

(8) The record of the inquiry shall include,

(i) the charges framed against the employee and the statement of allegations furnished to him under sub-rule (2);

(ii) his written statement of defence, if any;

(iii) the oral evidence taken in the course of the inquiry;

(iv) the documentary evidence considered in the course of the inquiry;

(v) the orders, if any, made by the Inquiring Officer in regard to the inquiry; and

(vi) a report setting out the findings on each charges and the reasons therefor.

(9) Notwithstanding anything contained in this rule' where the employee has absconded, or does not take par

in the inquiry or where for any reasons to be recorded in writing it is impracticable to communicate with him or where the Inquiring Officer for reasons to be recorded in writing, is satisfied that it is not reasonably practicable to follow the procedure prescribed in this rule, the Inquiring Officer may pass an order to that effect and direct the inquiry to be proceeded with *ex parte*:

Provided that if the employee satisfies the Inquiring Officer within a month of the date of the order referred to above, that he was prevented for sufficient cause from appearing before the Inquiring Officer, the Inquiring Officer may set aside the said order and direct the proceedings to be commenced *de novo* from the stage where the Inquiry was, before the order to proceed *ex parte* was issued.

[No. HMA 22 MLR 71.]

By Order and in the name of the President of India,

B. S. MUDDAPPA,
*Secretary to Government of Mysore,*
*Health and Municipal Administration Department.*

251